

Internal distribution code:

- (A) [-] Publication in OJ
- (B) [-] To Chairmen and Members
- (C) [-] To Chairmen
- (D) [X] No distribution

**Datasheet for the decision
of 3 June 2026**

Case Number: T 0808/23 - 3.2.02

Application Number: 12177880.7

Publication Number: 2548528

IPC: A61B18/18, A61F9/008

Language of the proceedings: EN

Title of invention:

Apparatus for patterned plasma-mediated laser trephination of the lens capsule and three dimensional phaco-segmentation

Patent Proprietor:

AMO Development, LLC

Opponents:

Alcon AG

Grünecker Patent- und Rechtsanwälte PartG mbB

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0

Case Number: T 0808/23 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 3 June 2026

Appellant: Grünecker Patent- und Rechtsanwälte PartG mbB
(Opponent 2) Leopoldstrasse 4
80802 München (DE)

Respondent: AMO Development, LLC
(Patent Proprietor) 1700 E. St. Andrew Place
Santa Ana, CA 92705 (US)

Representative: Hoffmann Eitle
Patent- und Rechtsanwälte PartmbB
Arabellastraße 30
81925 München (DE)

Party as of right: Alcon AG
(Opponent 1) Rue Louis-d'Affry 6
1701 Fribourg (CH)

Representative: Breuer Friedrich Hahner
Patentanwälte PartG mbB
Brienner Straße 1
80333 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted/electronically
transmitted on 23 February 2023 rejecting the
opposition filed against European patent No.
2548528 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman	M. Alvazzi Delfrate
Members:	S. Dennler
	C. Schmidt

Summary of Facts and Submissions

- I. The appellant-opponent filed an appeal against the opposition division's decision to reject its opposition against the patent at issue.
- II. In its submission of 3 June 2026, the respondent-patent proprietor declared that it withdrew its approval of the text for which the patent was granted. It added that as such, there was no longer any text agreed by the patent proprietor and that it was understood that the patent would be revoked.

Reasons for the Decision

1. Pursuant to Article 113(2) EPC, the European Patent Office shall examine, and decide upon, a European patent only in the text submitted to it, or agreed, by the patent proprietor.
2. Such an agreement cannot be deemed to exist where, as in this case, the patent proprietor no longer approves the text of the patent as granted and additionally states that as such, there is no longer any text agreed by it, thereby indicating that it no longer approves the text of the patent in any form, including as amended according to any of its pending requests.
3. Consequently, there is no text of the patent on the basis of which the Board can consider the appeal. In these circumstances, the proceedings are to be terminated by a decision ordering the revocation of the patent, without examination as to patentability (see Case Law of the Boards of Appeal of the European Patent Office, 11th edition, IV.D.2).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



G. Magouliotis

M. Alvazzi Delfrate

Decision electronically authenticated